



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2014-1039]

RIN 1625-AA09

Drawbridge Operation Regulation; Chevron Oil Company Canal,
Fourchon, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adding a special operating regulation governing the State Route 3090 (SR 3090) swing span bridge across the Chevron Oil Company Canal, mile 0.05, at Fourchon, Louisiana. Since construction of the bridge in 1972, the bridge has operated on a customary schedule requiring a one-hour advance notice without having a special operating regulation in place. This rule codifies the current custom and operating schedule of the bridge as a special operating regulation.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG 2014-1039]. To view documents mentioned in

this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Donna Gagliano, Bridge Specialist, Coast Guard; telephone 504-671-2128, email Donna.Gagliano@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable,

unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. This bridge has operated under one-hour notice for openings since put in place in 1972 without concern. Local community and waterway users are aware and accustomed to the operating schedule. In over 40 years of operation of this bridge, no complaints have been received by the Coast Guard. Waterway users understand how the bridge operates and this Final Rule simply codifies its operation. Completing the process of an NPRM is unnecessary because this operating practice is in use and accepted by the waterway users.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the Federal Register (FR). The bridge has been operating under the one-hour advance notification schedule for over 40 years. This final rule codifies the existing schedule in 33 CFR part 117. Therefore, providing a 30-day notice before making this rule effective is unnecessary.

B. Basis and Purpose

The SR 3090 swing span bridge, locally known as the Fourchon Bridge, across the Chevron Oil Company Canal, mile

0.05, at Fourchon, LA has a vertical clearance of 12.0 feet above Mean High Water elevation, 3.0 feet at Mean Sea Level in the closed-to-navigation position, unlimited in the open position. Presently, this bridge opens on signal if at least one-hour advanced notification is given to the Greater Lafourche Port Commission 24-hour dispatcher. This operating schedule has been in place since the bridge was constructed in 1972; however, this custom and operating schedule was never codified in subpart B, Specific Requirements, under 33 CFR part 117. This final rule codifies the existing operating schedule for the bridge. Since construction of the bridge, no complaints have been received by the Coast Guard from waterway users concerning the operation of the bridge.

Navigation on the waterway consists of oilfield related equipment, houseboats, shrimp boats, and other recreational craft. The bridge has opened on average one time per month for the passage of oil field equipment, houseboats, shrimp boats, and other recreational crafts. During the shrimp season, the bridge may open 8-10 times per month.

C. Discussion of Final Rule

Under 33 CFR 117.5, bridges are required to open on signal for the passage of vessels except as otherwise

authorized or required. The SR 3090 bridge is currently untended and maintained in the closed-to-navigation position. The bridge opens for the passage of vessels if a one-hour advance notice to the Greater Lafourche Port Commission 24-hour dispatcher. Title 33 CFR 117.40 requires that, if approved, a description of the full operation of the advance one-hour notice on the drawbridge will be added to subpart B of this part.

This present operating schedule is known and understood by the local waterway users, but this operating schedule is not reflected in the CFR. This rule codifies this schedule as a Special Operating Requirement under 33 CFR part 117, subpart B.

The operation of the draw of the SR 3090 swing span bridge across the Chevron Oil Company Canal, mile 0.05, at Fourchon, LA is as follows: The draw of the SR 3090 bridge at Fourchon shall open on signal if at least one-hour notice is given.

D. Regulatory Analyses

We developed this Final Rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard does not consider this rule to be "significant" under that Order because the rule only codifies the current operating schedule for the SR 3090 bridge which is already understood, known, and accepted by the local bridge and waterway users.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule would affect the following entities, some of which may be small entities: the owners or operators of

vessels who wish to transit the bridge. However, the affect would be negligible as this rule codifies the current custom and operating schedule of the bridge that mariners are accustomed to and the bridge would still be able to open with advance notice.

This Final Rule formalizes the drawbridge operation custom that has been in place since 1972. Therefore, mariners would not be affected given that they would not experience any alteration of current expectations with regard to current drawbridge operation.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The

Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be

received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule does not use a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, and Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the promulgation of special operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Redesignate §§ 117.437 through 117.439 as §§ 117.438 through 117.440, respectively, and add new §117.437 to read as follows:

§117.437 Chevron Oil Company Canal.

The draw of the SR 3090, mile 0.05, at Fourchon, shall open on signal if at least one-hour notice is given.

Dated: February 11, 2015

Kevin S. Cook
Rear Admiral, U.S. Coast Guard
Commander,
Eighth Coast Guard District

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